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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,289	01/16/2004	Jon H. Werner	NavAssist.000004	7156

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EXAMINER

LE, NHAN T

ART UNIT PAPER NUMBER

2618

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,289

Applicant(s)

WERNER ET AL.

Examiner

Nhan T. Le

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myllymaki (US 2002/0102988) in view of Rigo et al (US 2002/0049535) further in view of Root et al (US 6,013,007).

As to claims 1, 11, 20, Myllymaki teaches a portable device, comprising: a global positioning system (GPS) receiver (see fig. 1, number 22, paragraphs 0013-0022); a wireless wide-area network transmitter supporting communication over-the-air to a wireless communication network (see fig. 1, number 23, paragraphs 0013-0022); and a processing unit coupled to the GPS receiver and the wireless wide-area network transmitter, wherein the processing unit receives from the GPS receiver (see fig. 1, number 21, paragraphs 0013-0022). Myllymaki fails to teach determining route information therefrom, and wherein the processing unit outputs the route information to the wireless communication network during activity via the wireless wide-area network transmitter, wherein the processing unit receives data describing a plurality of waypoints within a route of fitness activity; determines athletic performance information including athletic performance information indicative of velocity and the plurality of waypoints within the wireless communication network during the traversal of the route via the

wireless wide-area transmitter. Rigo teaches determining route information therefrom, and wherein the processing unit outputs the route information to the wireless communication network during activity via the wireless wide-area network transmitter (see paragraphs 0022-0025). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Rigo into the system of Myllymaki in order to provide users querying the geographical position and direction of travel (as suggested by Rigo paragraph 0025). The combination of Myllymaki and Rigo fails to teach wherein the processing unit receives data describing a plurality of waypoints within a route of fitness activity; determines athletic performance information including athletic performance information indicative of velocity and the plurality of waypoints within the wireless communication network during the traversal of the route via the wireless wide-area transmitter. Root teaches wherein the processing unit receives data describing a plurality of waypoints within a route of fitness activity; determines athletic performance information including athletic performance information indicative of velocity and the plurality of waypoints within the wireless communication network during the traversal of the route via the wireless wide-area transmitter (see col. 5, lines 35-65; col. 7, lines 16-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Root into the system of Myllymaki and Rigo in order to monitor the athletic performance.

As to claim 2, the combination of Myllymaki, Rigo and Root teaches comprising a wireless wide-area network receiver coupled to the processing unit (see Myllymaki fig. 1, number 21, paragraphs 0013-0022).

As to claims 3, 12, the combination of Myllymaki, Rigo and Root teaches wherein the GPS receiver comprises an assisted GPS receiver; the wireless wide-area network receiver receives at least elevation information; and the processing unit determines at least a portion of performance information utilizing the elevation information (see Myllymaki fig. 1, number 21, paragraphs 0013-0022).

As to claims 4, 13, the combination of Myllymaki, Rigo and Root teaches wherein the wireless wide-area network receiver receives from the wireless wide-area network route information regarding a predetermined route and wherein the portable device further includes a presentation device that presents the route information (see Rigo paragraphs 0022-0025).

As to claims 5, 14, the combination of Myllymaki, Rigo and Root teaches wherein the presentation device comprises means for presenting the route information in audio format (see Rigo paragraphs 0022-0025).

As to claims 6-7, 15-17, the combination of Myllymaki, Rigo and Root teaches wherein the wireless wide-area network receiver receives recommendation over-the-air from the wireless wide-area network during the fitness activity (see Rigo paragraphs 0022-0025), and wherein the portable device further includes a presentation device that presents the recommendation to a user during the activity in real-time (see Rigo paragraphs 0022-0025), wherein the recommendation is received in audio format and wherein the presentation device comprises means for presenting the recommendation in audio format, wherein the wireless wide-area network receiver receives the training

recommendation in a voice-over-Internet Protocol (VoIP) session (see Rigo paragraphs 0022-0025).

As to claims 9, 18, the combination of Myllymaki, Rigo and Root teaches comprising a microphone to sense audio inputs, wherein the wireless wide-area network transmitter transmits the audio inputs over-the-air to a wireless communication network (see Rigo paragraphs 0022-0025).

As to claims 10, 19, the combination of Myllymaki, Rigo and Root teaches a data storage device coupled to the processing unit, wherein the processing unit stores at least some of the performance information pertaining to particular ones of the plurality of waypoints within the data storage device in association with particular ones of the plurality of waypoints (see Myllymaki paragraphs 0022-0023, Root col.5, lines 35-65; col. 7, lines 16-50).

As to claim 21, the combination of Myllymaki, Rigo and Root teaches comprising a presentation interface for a presentation device proximate to a human user of the portable fitness device, wherein the processing unit is coupled to the presentation interface and presents the athletic performance information utilizing the presentation device via the presentation interface in real-time (see Root col. 5, lines 35-65; col. 7, lines 16-50).

As to claim 22, the combination of Myllymaki, Rigo and Root teaches wherein the presentation interface comprises a wireless display interface (see Root col. 5, lines 35-65; col. 7, lines 16-50); the presentation device comprises a display; and the processing

unit presents the athletic performance information within the display via the wireless display interface in real-time (see Root col. 5, lines 35-65; col. 7, lines 16-50).

As to claim 23, the combination of Myllymaki, Rigo and Root teaches wherein the athletic performance information includes at least one of a set including differential athletic performance information and cumulative athletic performance information over the route (see Root col. 5, lines 35-65; col. 7, lines 16-50).

As to claim 24, the combination of Myllymaki, Rigo and Root teaches comprising an sensor coupled to the processing unit to provide environmental information, wherein the processing unit associates the environmental information with particular ones of the plurality of waypoints and transmits the environmental information to the wireless communication network in association with the particular ones of the plurality of waypoints (see Root col. 5, lines 36-65; col. 7, lines 16-50).

As to claim 25, the combination of Myllymaki, Rigo and Root teaches an athletic performance sensor coupled to the processing unit to provide sensed athletic performance information independent of the plurality of waypoints, wherein the processing unit associates the sensed athletic performance information with particular ones of the plurality of waypoints and transmits the sensed athletic performance information to the wireless communication network in association with the particular ones of the plurality of waypoints (see Root col. 5, lines 36-65; col. 7, lines 16-50).

As to claim 26, the combination of Myllymaki, Rigo and Root teaches wherein the processing unit outputs the athletic performance information to the wireless

communication network during traversal of the route via the wireless wide-area network transmitter (see Root col. 5, lines 36-65; col. 7, lines 16-50).

As to claim 27, the combination of Myllymaki, Rigo and Root teaches wherein the processing unit initiates transmission of the plurality of waypoints within the route to the wireless communication network independently of any request received from the wireless communication network(see Rigo paragraphs 0022-0025; Root col. 5, lines 36-65; col. 7, lines 16-50).

Response to Arguments

Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

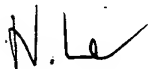
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

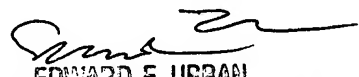
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T. Le whose telephone number is 571-272-7892. The examiner can normally be reached on 08:00-05:00 (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nhan Le



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